

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, November 13, 2002, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Steve Duvall, Roger Larson, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor (Gerry Krieser and Mary Bills-Strand absent); Marvin Krout, Ray Hill, Brian Will, Becky Horner, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held October 30, 2002. Newman moved to approve the minutes, seconded by Carlson and carried 5-0: Carlson, Larson, Newman, Schwinn and Taylor voting 'yes'; Duvall and Steward abstaining; Krieser and Bills-Strand absent.

### **CONSENT AGENDA**

#### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

##### **BEFORE PLANNING COMMISSION:**

November 13, 2002

Members present: Carlson, Duvall, Larson, Newman, Schwinn, Steward and Taylor; Krieser and Bills-Strand absent.

The Consent Agenda consisted of the following items: **USE PERMIT NO. 140A; FINAL PLAT NO. 02018, PINE LAKE HEIGHTS SOUTH 6<sup>TH</sup> ADDITION; FINAL PLAT NO. 02023, VINTAGE HEIGHTS 11<sup>TH</sup> ADDITION; and FINAL PLAT NO. 02029, STONE BRIDGE CREEK 1<sup>ST</sup> ADDITION.**

**Item No. 1.1, Use Permit No. 140A**, was removed from the Consent Agenda and scheduled for separate public hearing.

Newman moved to approve the remaining Consent Agenda, seconded by Carlson and carried 7-0: Carlson, Duvall, Larson, Newman, Schwinn, Steward and Taylor voting 'yes'; Krieser and Bills-Strand absent.

Note: This is final action on the Pine Lake Heights South 6<sup>th</sup> Addition Final Plat No. 02018; Vintage Heights 11<sup>th</sup> Addition Final Plat No. 02023; and Stone Bridge Creek 1<sup>st</sup> Addition Final Plat No. 02029, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**USE PERMIT NO. 140A**  
**TO MODIFY THE PARKING LOT**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 91<sup>ST</sup> STREET AND HIGHWAY 2.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

November 13, 2002

Members present: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn; Bills-Strand and Krieser absent.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing at the request of Mike Morrow.

Proponents

**1. Mark Hunzeker** appeared on behalf of Menards. The only purpose for this application is to enable Menards to place an awning over the area of their garden center on the east side of the building. It is an area that will be used for the sale of various garden related products, with or without this awning. Nothing will be added to the traffic burden as a result of this project and Hunzeker believes the staff agrees.

Opposition

**1. Mike Morrow** appeared on behalf of Eiger Corp., the developer of the shopping center at 84<sup>th</sup> & Hwy 2. Morrow indicated that his client is not necessarily opposed; however, he is seeking clarification of this use permit amendment. Currently, the Menards facility has been authorized for 184,000 sq. ft. The requested amendment would increase that to 194,853 sq. ft. The entire center has a permitted area of 825,400 sq. ft., and an approved maximum of 940,000 sq. ft., assuming that the pm peak hour trips do not exceed 2,925 trips. Therefore, Morrow requested that the approval of this amendment be made contingent upon an increase in the overall size of the center since Menards is, in fact, requesting an increase in their permitted area.

Morrow submitted that it is not “just an awning”—it increases the size of the Menards permit area by 10,850 sq. ft., which will have an impact on the overall allowable square footage that can be built within the center. Morrow is also fairly confident that the garden center will increase the number of pm trips, and this is referred to in the staff report.

Morrow reiterated his request that the underlying use permit also be amended to increase the total permitted square footage to 836,253 sq. ft., which would be an increase of exactly the amount requested by this amendment, up to a maximum of 950,853 sq. ft., and that the number of pm trips allowed under the current existing permit (2,925 pm trips) be increased by a number of pm trips that the staff believes would be attributable to the construction of the garden center. Alternatively, Eiger Corp. must oppose this application. Eiger has paid all the money to the city for construction, has posted all the required bonds and built the infrastructure, and they have been fairly cautious in allocating square footage as far as what those pm trips generate. This application requests an increase in square footage and Morrow’s client will support that increase, provided that the square footage of the overall use permit is increased and the pm trips are increased by corresponding amounts.

Carlson inquired whether Eiger Corp. is going to be suffering economically by this proposed amendment. What about the rent increase? Morrow indicated that the parcel has been sold to Menards and is not leased. Under that sale agreement, Menards was allocated the initial 184,000 sq. ft., and that is what has been allowed by the city under the permit.

### **Staff questions**

Steward inquired as to the impact of increasing the total permit. Brian Will of Planning staff stated that it may be acceptable if there is some sort of analysis that demonstrates that we are not exceeding the maximum pm trip limits. Will was not aware of this opposition because there was a letter from the developer of the center indicating that they were agreeable to this amendment.

Ray Hill of Planning staff cautioned that the Commission would not be able to increase the total floor area of the use permit today because it has not been advertised. The Planning Director does have the authority to approve minor increases in total floor area, but this would require an application for an administrative amendment and could not be done today.

Taylor wondered whether this would be considered a minor increase. Hill stated that it would require a review by the staff because it also involves the total pm peak traffic. The whole center would need to be analyzed before making a determination as to whether it could be approved administratively. Today, the Commission cannot increase the total floor area; however, the Commission may grant the waiver of parking today.

**Response by the Applicant**

Hunzeker indicated that he was also caught a little off-guard by the opposition. The letter in the packet from the developer of the center indicates support for this application. This applicant has provided documentation to the staff that the addition of this awning does not materially increase traffic. In fact, there is also information regarding a site specific study of trips generated by a nearly identical store owned by Menards which generates trips at a much lower rate than that assumed in the study that generated the initial trip cap. This is simply placing an awning over an area which will already have products for sale. This does not increase the number or availability of products for sale at retail. Hunzeker believes there will be zero impact on the total number of people coming to this store as the result of this awning.

Hunzeker requested that the Planning Commission approve this application. This is a minuscule change in the scope of this project. Menards has a substantial building behind the main building which serves as lumber storage which is included in the total square footage of this project as well. It is inconceivable that you would be generating traffic at the same rate on that square footage as you would within the retail area of the store. Moreover, Hunzeker believes that this is a very low intensity type of retail with very wide aisles and large product. Whatever minor adjustments need to be made to satisfy the overall caps on this project can be done administratively.

Hunzeker also pointed out that this application must also go to the City Council, so if there are any further adjustments that need to be made, or if there is the need to process an administrative amendment, that can be done between now and when this gets scheduled on the Council agenda.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

November 13, 2002

Duvall moved to approve the staff recommendation of conditional approval, as set forth in the staff report, seconded by Taylor.

Duvall believes it's a matter of interpretation as to what is a garden center and what is a structure. He believes any problems can be worked out with the applicant.

Motion for conditional approval carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

**SPECIAL PERMIT NO. 1993**  
**FOR A GYMNASTICS SCHOOL**  
**ON PROPERTY GENERALLY LOCATED**  
**AT 610 HILL STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

November 13, 2002

Members present: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn; Bills-Strand and Krieser absent.

Staff recommendation: Conditional approval.

Becky Horner of Planning staff submitted a letter in support from Robert Dugas, the property owner, who has entered into a purchase agreement with the applicant.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant, Solid Rock Gymnastics. This is the end of a fairly long search by the applicant to find a location to relocate their gymnastics school. This site works very, very well and is a good site for this type of use. It is right next to the existing roller skating rink, on a site that formerly had a bubble that was used for a variety of things including indoor soccer.

Hunzeker noted that the one concern raised by the Health Dept. is the potential of the possibility of storage and/or spills of hazardous materials in the area with it being located in an industrial district. Hunzeker has worked with the Health Department and they have agreed upon the following amendments to the conditions of approval:

- 2.1.4 Add a note to the site plan indicating ~~the permittee and/or owner of the lot agrees to terminate the use of the premises as a private school within sixty days of receipt of notification from the building official of the storage of hazardous materials on property within 300 feet of the building used for the private school~~ that the building shall have an emergency single-switch shut-off so that the air handling system can be immediately shut down in case of a hazardous chemical spill in the area, to the satisfaction of the Lincoln-Lancaster County Health Department. A switch shall be located so that it is easily accessible at all times to the Permittee's staff. Permittee's staff shall be trained on how to operate the switch.

\*\*\*\*\*

3. Upon signature of the Letter of Acceptance, the permittee agrees to ~~terminate the use of the premises as a private school within sixty days of receipt of notification from the building official of the storage of hazardous materials on property within 300 feet of the~~

building used for the private school prepare an evacuation plan for the building in consultation with and approval of the Lincoln-Lancaster County Health Department, for use in the event of a hazardous material spill which endangers people in the building.

3.1 In addition, Permittee shall:

- 3.1.1 Within 48 hours of becoming aware that quantities of hazardous materials requiring a permit under Section 19.03.100 are being stored, transported, dispensed, used or handled on property within 300 feet of the building area used for the private school, notify Lincoln-Lancaster County Health Department of such condition; or,
- 3.1.2 Upon being notified by the Lincoln-Lancaster County Health Department that quantities of hazardous materials requiring a permit under Section 19.03.100 of the Lincoln Municipal Code are being stored, transported, dispensed, used or handled on property within 300 feet of the building area used for the private school shall, in cooperation and consultation with the Health Department, enter into negotiations with the owner of property upon which such hazardous materials are being stored, transported, dispensed, used or handled to arrive at means to assure the health, safety and welfare of people using the Permittee's property; and
- 3.1.3 Shall notify parents of the students of the facility of the existence of such hazardous materials within 300 feet of the building; and
- 3.1.4 Shall cooperate with the Lincoln-Lancaster County Health Department in determining measures which may be taken on Permittee's property to protect the health, safety and welfare of persons using Permittee's property, including, but not limited to, establishment of training programs for employees to assure detection of hazardous materials and evacuation of the premises, installation of filtration systems in the HVAC system of the building, or other precautionary measures.

The concern about the previous language was that it would have required immediate cessation of activities on this site within 14 days after notification of storage of hazardous materials on other people's property. This condition would have made it impossible for this applicant to get financing for the building.

Steward suggested that the aerial photo shows that currently, there is only one industrial use within the current 300' limit. Hunzeker advised that industrial use to be the old Standard Meat building. He believes it is vacant. R.E. Meyer is now the owner and he does not know the intent for this building.

Schwinn believes the building is being renovated. Hunzeker believes it is unlikely to be a building used for storing any substantial amount of hazardous material. Duvall believes the building will be used by R.E. Meyer in its meat business.

**2. Rick Thorson**, Assistant Chief for Environmental Public Health for the Lincoln-Lancaster County Health Department, testified in support of the revised conditions of approval. These amendments are consistent with the ongoing efforts to maintain the 300' buffer in the I-1 zones. He commended the applicant for coming up with this language.

### Opposition

**1. Don Frank**, owner of the property immediately to the west, testified that he is not really opposed but he has some questions and concerns. There is a drainage ditch in that area and after every rain it is full of water and takes a long time to soak away. In the summertime, the mosquitoes are horrible. With regard to the Standard Meat building, he believes it was purchased by BJ Enterprises. R.E. Meyer owns the skating rink and the block to the east. He has a concern about the mowing and weed control, which has been almost nonexistent this summer. What kind of building will be erected? Will it be inside the existing cyclone fence? He is also concerned about the amount of garbage and debris that will be generated by this use. He had problems with garbage (bottles, cups, plastic, glass) when there was a bubble on this property. There have also been people urinating in front of parked cars on the property. Traffic was a problem when the bubble existed. Graffiti has been painted on the walls of the skating rink and there have been some questionable beings in the area. If there were some police surveillance, Frank believes it might dissuade some of the problems. There is a dead-end at the end of Hill Street where cars will stop and turn out their lights, causing one to assume that something illegal might be taking place.

Schwinn asked Frank whether he lives on the property. Frank stated that he owns the property, and his daughter lives in the house. He uses the property for agriculture.

### Response by the Applicant

Hunzeker addressed the concerns raised by Mr. Frank. With regard to the drainage ditch, Hunzeker was not certain that the drainage ditch is on the subject property and believes that it is a problem that is caused off-site. This has not been raised as a concern in any of the staff reports and he does not believe this proposal contributes to any drainage problems that do not already exist nor does it exacerbate any that exist today.

With respect to weeds, Hunzeker suggested that the main area of problem is the area north of the proposed building. This area will be planted in grass and maintenance will be the responsibility of the gymnastics school until that property is further developed.

Hunzeker also advised that the building will be primarily steel with some brick. It is a fairly well-landscaped site. The revised site plan includes installation of street trees, despite the fact that this is not a subdivision.

With regard to the additional traffic, the kids attending the gymnastics school will virtually always be accompanied by a parent, and he believes this will have a positive impact on whatever other kinds of activities may be taking place on the site today.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** November 13, 2002

Steward moved to approve the staff recommendation of conditional approval, with the amendments as proposed by the applicant and agreed upon by the Health Department, seconded by Newman and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**ANNEXATION NO. 02006;**  
**CHANGE OF ZONE NO. 3373**  
**FROM AGR AGRICULTURAL RESIDENTIAL**  
**TO R-3 RESIDENTIAL;**  
**USE PERMIT NO. 145; and**  
**PRELIMINARY PLAT NO. 02016,**  
**PINE LAKE PLAZA,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**SOUTH 84<sup>TH</sup> STREET AND PINE LAKE ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

November 13, 2002

Members present: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn; Bills-Strand and Krieser absent.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone and conditional approval of the use permit and preliminary plat.



Proponents

**1. Mark Hunzeker** appeared on behalf of the owners and developers of this project. This proposal has been through a fairly long and laborious process to get to this point. It has gone from this property being shown in the Comprehensive Plan as Agricultural Residential, through the process of the Southeast Lincoln Subarea Plan that designated this area as potential for office type development. The developers have reached agreement with the Pine Lake neighborhood and have worked with the staff and the other neighbors. They have boiled this down to a relatively small handful of issues, which involve about seven or eight of the conditions of approval in the staff report.

Request to delete Condition #1.1.1 of the preliminary plat. The first issue has to do with Pine Lake Road. Pine Lake Road, along the south side of the Pine Lake subdivision, is an existing county blacktop road. One of the concerns that the Pine Lake neighborhood had during the Comprehensive Plan discussion was that their neighborhood, to the extent possible, remain consistent with their rural acreage lifestyle. Thus, the developer and neighbors have agreed that there is no desire to see Pine Lake Road become a through-trafficway, and for that reason it has been agreed that a portion of Pine Lake Road be proposed to be vacated in order to funnel the traffic from 84<sup>th</sup> Street to Hwy 2 through the Pine Lake Plaza site from east to west, providing a connection at the two roads that lead into the Pine Lake subdivision, but severing the connection between those two in such a way as to prevent through traffic on Pine Lake Road. Condition #1.1.1 of the preliminary plat requires that this developer regrade and rebuild Pine Lake Road to an urban cross-section, including curb and gutter. Hunzeker requested that Condition #1.1.1 be deleted.

Request to delete Condition #1.1.2 of the preliminary plat. This condition requires dedication of an easement to accommodate drainage for detention cell #1. Hunzeker believes this requirement is based upon an assumption in the Public Works report that that property is not part of this application or on property owned by others. Hunzeker submits that not to be the case. It is on property that is part of this application and this condition is not necessary.

Request to delete Condition #1.1.4 of the preliminary plat. Stan and Grace Portsche own the property at the corner of 84<sup>th</sup> and Hwy 2, which is zoned O-3. The Portsche's have owned this property for a very long time and have lost pieces several different times over the years due to expanding the rights-of-way of Hwy 2 and 84<sup>th</sup> Street. As it stands today, the Portsche's have right to an access to 84<sup>th</sup> Street. They do not have a right to an access to Hwy 2. The access proposed under this proposal is significantly set back to the north from Hwy 2, far enough that it will be well outside the beginning of the right turn lane to take you westbound on Hwy 2 at 84<sup>th</sup>. Hunzeker purported that there is more than ample room to provide a right turn access and it is the desire of the developer and the Portsche's that the 84<sup>th</sup> Street access be retained. It would detract materially from the value of the Portsche property to delete that access. Hunzeker understands that the grades of 84<sup>th</sup> Street as they may be adjusted will

present some challenges to having a good access there, but the Portsche's are prepared to deal with that issue at the time it is necessary and as that improvement is made to 84<sup>th</sup> Street.

Request to delete Condition #1.1.5 of the preliminary plat. Hunzeker stated that this condition is also an issue having to do with access to 84<sup>th</sup>; however, it is at the intersection of Eiger Drive and 84<sup>th</sup> Street, and involves the distance required for right turns into the site. The traffic study indicates a minimum number of right turns into this site during the peak pm traffic; in fact, barely enough right turns to justify having a right turn lane at all. Th staff report asks for a 250' long right turn lane, which the developer regards as being way more than is necessary. Hunzeker suggested that even the 150' right turn lane which is being shown is way more than is necessary for adequate functioning of this intersection, and 250' is merely a waste of money.

Request to amend Condition #1.1.6 of the preliminary plat. This condition deals with sidewalks relating to two streets.

- a) The west side of So. 84<sup>th</sup> Street (as it will be relocated) does not abut the property being developed in this proposal. It will be moved to the east. Hunzeker requested to delete the requirement to construct sidewalks in So. 84<sup>th</sup> Street abutting this property inasmuch as it will be moved to the east. To build that sidewalk today would be wasteful and it ought to be rebuilt and installed at the time 84<sup>th</sup> Street is moved.
- b) Hunzeker requested that this development not be required to place sidewalks on the south side of Pine Lake Road, which relates back to the cross-section issue (Condition #1.1.1). If Pine Lake Road is left as a rural cross-section, it will have a ditch and it will be impossible to establish grades for sidewalks and will be out of character for the area.

Request to amend Condition #1.1.8 of the preliminary plat. Hunzeker suggested that language be added at the end of Condition #1.1.8 to reflect the proposed amendments to Condition #1.1.6 as follows:

- 1.1.8 Revise Note #21 to indicate sidewalks will be provided along both sides of the streets except Highway 2, and except as noted in Condition #1.1.6.

Request to delete Condition #1.1.10 of the preliminary plat. This condition also relates to the issue of 84<sup>th</sup> Street access to the Portsche property, and Hunzeker requested that it be deleted.

Request to amend Condition #3.2.10 of the preliminary plat. Hunzeker requested that Lot 6, Block 3, be removed from Condition #3.2.10. This also relates to the Portsche property 84<sup>th</sup> Street access.

Hunzeker agreed with all other conditions of approval, including moving the building environment away from Hwy 2 to a consistent depth. It is his understanding that parking would be allowed outside the 50' setback area and they will keep the buildings back 200' from the centerline.

Hunzeker reiterated that this project has the support of the neighbors.

Larson inquired whether there is any access to Pine Lake Road off 84<sup>th</sup> Street now. Hunzeker responded, stating that the portion of Pine Lake Road that will be closed will be west of Eastshore Drive and east of Westshore Drive. Pine Lake Road will be vacated between those two streets. The intersection of 84<sup>th</sup> and Pine Lake Road is going to be moved to the north, and access into Pine Lake will be via a frontage road that will get you back to the old Pine Lake Road. This is in conjunction with changes that are being made on the east side to facilitate development of the shopping center.

Schwinn asked whether there is a house on the Portsche property. Hunzeker indicated that there is not a house on the Portsche property. The house is on property owned by Mr. Brinkman, who is not a part of this project. He has written a letter asking not to be annexed.

Steward observed that the new property lines, or the existing property line, would cut a part of that u-shaped roadway off and that would be a one-way in and out access. Hunzeker acknowledged that he actually just noticed that yesterday and it is unclear. That particular pin has not been surveyed specifically. These property lines have been taken from aerial photos that were not necessarily ever designed to be accurate to that degree. It may be that that property line would place that drive on the outside of Brinkman's property. It has been there a long time and he may have the right to it whether it is on his property or not. There was no conscious intent to change it one way or the other.

Newman inquired as to the intended use for Lot 6. Hunzeker indicated it to be an office building lot for general office space. There is no specific user at this time.

Schwinn noted that Lot 6 is going to have access on Alcrom Court, so why does it still need access on 84<sup>th</sup>? Hunzeker explained that this property has been subject to multiple condemnations. The Portsche's believe strongly that the value of this property would be diminished considerably if denied this access. It will facilitate the ability to place two office

buildings on this property, each of which would have its own front door type of access without essentially putting one behind the other. Hunzeker believes it will help to have an additional way out from this site rather than having to go back through to Eiger Drive.

Schwinn noted that the proposed South 84<sup>th</sup> Street will be moving 250' to the east. Currently, this proposed plat shows the proposed street; however, today we already have a right-of-way with 84<sup>th</sup> Street there. What happens to that parcel? Hunzeker has not read the agreement but he is told that there are some provisions in the annexation agreement relating to the property east of 84<sup>th</sup> Street. The intent is to vacate that right-of-way. He believes there are some agreements in place between the owner of the property east of 84<sup>th</sup> and at least one of the owners on the west side to trade some land once the vacation is completed. With respect to the Portsche's, he does not believe there is such an agreement. If that roadway is vacated, the property would revert half on each side. The half on the east side, depending on the order of things, might revert to the owner of the property on the east side of the new road or it may revert to the city.

Schwinn observed that if the access is maintained on 84<sup>th</sup> Street and that property changes hands, the Portsche's would not have access to 84<sup>th</sup> anyway. Hunzeker believes the access will be established prior to the vacation.

Carlson addressed the sidewalks on 84<sup>th</sup> Street and the request to remove this obligation. What about continuing to hold that obligation until such time as 84<sup>th</sup> is moved? Hunzeker agreed that to be an option, but he does not know when that is going to happen. He would prefer that that sidewalk be built with the street.

Carlson noted that 82<sup>nd</sup> Street connects to Pine Lake Road, so he has concerns about not having Pine Lake Road up to urban standards. Hunzeker anticipates that 82<sup>nd</sup> Street will be a street of convenience for people who live in Pine Lake. It is not anticipated that very much, if any, of this developer and/or employee traffic will use 82<sup>nd</sup> simply because of the convoluted route to get back to 84<sup>th</sup> Street. It is much easier and quicker to go straight to 84<sup>th</sup> on Eiger Drive.

Carlson inquired whether there is any way for pedestrian motion to move along the property or get into the property. Hunzeker noted that there will be sidewalks on 82<sup>nd</sup> Street. There is currently no sidewalk anywhere within Pine Lake, nor on either side of Pine Lake Road. There would be sidewalks on both sides of 82<sup>nd</sup> Street.

**2. Charlie Humble** appeared on behalf of the **Mid-American Conference of 7<sup>th</sup> Day Adventists**, in support of the request to delete Condition #1.1.1 and the amendments to Condition #1.1.6, particularly as it relates to Pine Lake Road. The church property is located at 84<sup>th</sup> and Pine Lake Road and even after the development, it will remain as church property. The access point for the church property is from Pine Lake Road and that will continue even

after any future development of office uses. While Hunzeker mentioned the fact that the neighbors' emphasis was on leaving the road as is, this is also the emphasis of the 7<sup>th</sup> Day Adventists. The idea behind the triangle and Eiger Drive is to funnel traffic through there, which would be away from the front door of the church. To do something that re-emphasizes Pine Lake Road is contrary to what the church wants to have in the future. Right now, there is temporary construction traffic coming along Pine Lake Road, and there are problems getting out onto Pine Lake Road. We want to go back to the way it was. That is why Eiger Drive was put in and the steps were taken in relation to vacating a portion of Pine Lake Road. Not only is it a neighborhood concern, it certainly is a 7<sup>th</sup> Day Adventists concern. The church sees no need for sidewalks if Pine Lake Road is maintained as a county road.

**3. Douglas Curry**, 8130 Pine Lake Road, immediately to the north of the proposed development, testified in support. It seems like we've been going to meetings for a long, long time over development of this area. We have been interested throughout all of those meetings in making sure that we do with Pine Lake Road that which is necessary to preserve the character and nature of the homes that we have. We understand that the developer wants this neighborhood to remain as it is and has been extremely cooperative with the neighbors. The community supports what this development proposes for the area, particularly with regard to the traffic flow. He understands the concern about sidewalks with regard to urban density along Pine Lake Road, but he would suggest that with the way 82<sup>nd</sup> Street comes in, to make Pine Lake Road an urban cross-section would encourage the kind of traffic that this traffic flow pattern is designed to interrupt. We need to keep the shopping center and arterial traffic away from this neighborhood. Curry supports the waivers being requested and changes to the conditions of approval.

**4. Naedo Henry**, 8230 Pine Lake Road, testified in support of the proposed changes to conditions of approval to leave Pine Lake Road as a rural road. The speed limit in front of her house is 50 mph which is higher than Hwy 2. Therefore, she supports the interruption of Pine Lake Road at that point.

**5. Kathy Conradt**, 8200 Pine Lake Road, testified in support of the proposed changes to the conditions of approval with regard to the sidewalks and the maintenance of Pine Lake Road as a rural road.

**6. Bevan Alvey**, 8000 Dougan, appeared on behalf of the **Pine Lake Association** in support of the proposed amendments requested by Mr. Hunzeker. The Pine Lake Association worked with Mr. Hampton and the 7<sup>th</sup> Day Adventists for close to a year and hammered out an agreement that met our needs in terms of protecting our neighborhood and allowing the responsible development of that triangle. It never occurred to us to talk about the sidewalks on Pine Lake Road because we never dreamed it would become an issue. The Pine Lake Association enthusiastically supports all of the work that is being done and which is unfolding just as agreed upon. The Pine Lake Association does not support the urbanization

of Pine Lake Road. It is unnecessary. With the reconfiguration of Pine Lake Road and the fact that it will have to make a turn to get to 84<sup>th</sup> Street; with the vacation of Pine Lake Road between Eastshore Drive and Westshore Drive and drawing traffic onto Eiger Road that otherwise would have gone down Pine Lake Road, it appears that there will be less traffic on Pine Lake Road than there may even be now. There will certainly not be a substantial increase. The Pine Lake Association is hopeful that Pine Lake Road will become a much quieter road like the internal roads in the Pine Lake subdivision.

**7. John Bussey**, 6940 Pine Lake Court, testified in support of the proposed amendments and commended the cooperation the developer has shown. Part of the development agreement was that the contractor would attempt to leave Pine Lake Road as it is and not urbanize it. None of the six houses in his court are interested in having curbs and sidewalks.

### Opposition

**1. Mike Morrow** appeared on behalf of **Eiger Corp.**, the owner and developer of the property to the east of 84<sup>th</sup> Street. His client is not necessarily in opposition of the plan. It is a well thought-out plan; however, Eiger Corp. would be opposed to two of the waiver requests. It is important the Commission realize that the city has let the design contract for realigned So. 84<sup>th</sup> Street from Hwy 2 to north of existing Pine Lake Road. It will be shifted fairly dramatically to the east and onto his client's property, which has been agreed upon. As part of that agreement, the city agreed to utilize its reasonable best efforts to vacate and abandon current 84<sup>th</sup> Street. His client would end up with the east half of vacated 84<sup>th</sup> Street, and the people that are the owners of the property on the west side will end up with the vacated western portion of 84<sup>th</sup> Street. In connection with his client's annexation, it was always contemplated that when 84<sup>th</sup> was realigned, there would be no access points on 84<sup>th</sup> from Hwy 2 except in Eiger Drive and Pine Lake Road itself as realigned. Eiger Corp. is generally and overall in favor of the development, as proposed; however, Morrow requested that the conditions of approval set forth in the staff report be adopted, including no access from 84<sup>th</sup> Street from realigned Hwy 2 to north of Pine Lake Road, except at Eiger Drive and at Pine Lake Road. That was the entire reason for looking at expanding 84<sup>th</sup> to a four lane facility and we should not start to make exceptions to that long range plan.

Morrow also noted that there has been a request to waive the installation of sidewalks along 84<sup>th</sup> Street. The Eiger Corp. would support that waiver to the extent it relates to existing 84<sup>th</sup> Street; however, Morrow requested that that condition be retained and require the developer to construct sidewalks along the western side of realigned 84<sup>th</sup> Street. His client is doing it on the east side and he believes it should be done on the west side.

If he understands the earlier premise on the vacation and the split, Steward believes those sidewalks will be on the Eiger property. Dennis Bartels of Public Works explained that the reason for the recommendation to show sidewalks along relocated 84<sup>th</sup> Street is because the

way this plat is drawn, the lots in the subdivision are shown as if they own the property all the way to 84<sup>th</sup> Street. Therefore, in reviewing the proposal, staff assumed that Pine Lake Plaza would purchase that property because that's the way the plat was drawn.

Schwinn inquired whether there are agreements to transfer that property? Bartels stated that the full scale plat showed the lots going up to the new relocated 84<sup>th</sup> Street. At this point, he assumes they do not own it.

Schwinn recalled that during the subarea plan and the shopping center proposal, 84<sup>th</sup> Street in this particular area was de-emphasized. Aren't we taking more traffic to 91<sup>st</sup>? Bartels stated that there is another major entrance to the shopping center at 87<sup>th</sup> & Hwy 2, so Hwy 2 traffic will use the Hwy 2 entrance instead of 84<sup>th</sup>. There is still a large amount of traffic on 84<sup>th</sup> Street. The projected traffic will use all the capacity that the four lanes would provide. 84<sup>th</sup> Street will be redesigned to major arterial standards, i.e. four lane divided with dual turn lanes. There is still a large amount of traffic that will use 84<sup>th</sup> Street.

Newman asked Morrow whether he has a problem with the standards of Pine Lake Road west of 84<sup>th</sup> Street? What are we going to do with Pine Lake Road to the east of 84<sup>th</sup>? Morrow indicated that he does not have a problem with the standards west of 84<sup>th</sup> Street for Pine Lake Road. As far as going east of 84<sup>th</sup> Street, which would be along the northern side of the Eiger development, their annexation agreement provides for construction of an expanded Pine Lake Road facility and sidewalks. Eiger intends to honor these commitments made to the city. In connection with 84<sup>th</sup> Street from Hwy 2 to Pine Lake Road, Morrow pointed out that that is a city project but with development of the shopping center, his client will have a substantial investment. He acknowledged that the city is building it; however, Eiger has contributed ½ million dollars for the construction of that road, and Morrow requested that the design that was incorporated in the annexation agreement and the approval of their use permit (which does not show access to 84<sup>th</sup> Street except at Eiger Drive) be retained. He believes that 84<sup>th</sup> Street will be a major arterial. Eiger Drive east of 84<sup>th</sup> Street into the shopping center is anticipated to bring a lot of traffic into the shopping center. Hwy 2 will catch the traffic coming in from the south side. But going south on 84<sup>th</sup> Street, people will use Eiger Drive as the entrance to the shopping center.

Larson confirmed that Morrow is interested in there being no access off 84<sup>th</sup> from Hwy 2 to Pine Lake Road, except at Eiger Drive. Morrow believes the staff recommendation is that the Hampton development provide for access points internally within their development to both the Portsche property and the Brinkman property, and that those easements be granted to those owners so they can access their property through the development. Morrow believes that is appropriate. In connection with the design of realigned 84<sup>th</sup> Street, the elevation of 84<sup>th</sup> Street is going to be increased dramatically to provide a more level at-grade crossing with Hwy 2 – almost 6'. The drives that would go down into the Portsche or Brinkman property do

not meet city standards. It has been proposed that existing 84<sup>th</sup> Street be retained as some type of frontage road to provide access. This is not appropriate. The access for those properties should be internalized within the Hampton development and old 84<sup>th</sup> Street vacated.

**Staff questions**

Carlson asked whether the staff has talked with the applicant about the easement required by Condition #1.1.2, which the applicant is requesting be deleted. Bartels indicated that the detention pond showed ponding water which backed up into the Brinkman property, with minor grading on the Brinkman property. If there is something inaccurate about the drawing, Bartels offered to clarify with the applicant before the application gets to the City Council. The issue was that it appeared that the pool backed up onto someone else's property.

Carlson asked staff to confirm the issue regarding setbacks. Brian Will agreed with the applicant's testimony and confirmed that they will be allowed to have parking within that area if the building environment is moved back as requested.

Carlson inquired about the trail that moves up Hwy 2. Where does it go now and where is it intended to go? Bartels recalled that there is a trail through the other shopping center that parallels 91<sup>st</sup> Street. The trail that dead-ends at 56<sup>th</sup> is not adjacent or near this property.

Steward asked staff to respond to the request to delete Condition #1.1.5, which requires the 250' right-turn, southbound lane in South 84<sup>th</sup> Street, which the applicant is requesting be deleted. Bartels agreed that 150' will handle the number of cars predicted by the traffic engineer. The 250' was recommended more as an operational aspect to provide a little longer lane for stacking considerations.

Steward discussed the Brinkman request to remove Lot 34 from the annexation. Everything else around this property is in track to be annexed. Is there any logic to connect this particular piece of the annexation to the roadway completion? Bartels advised that the intent is to begin construction on that road early next year. As soon as the water main goes out to the new water storage facility south of Hwy 2, the construction of the road will follow. The staff believes that Lot 34 should be annexed now.

Newman asked for further clarification of the requirement to urbanize Pine Lake Road. Bartels clarified that urban standards refer to 27' wide local street similar to the lots that front on Pine Lake Road. He does not see this as a big change for Pine Lake in general. This plat will create 8 townhouse lots and an office lot to take access to it. A rural cross-section is higher maintenance cost to the city; the urban cross-section is more of a self-maintaining section and would not be as labor intensive. If we don't put this requirement with this plat, we would have to use street construction funds to pay for everything but the curb and gutter. Bartels believes



that the nature of this plat necessitates, for maintenance purposes, the construction of a local curb and gutter street similar to what you see in the rest of Pine Lake. Putting curb and gutter in there will not add traffic to the street. The width will be similar. 26' curb and gutter should not attract more traffic. The requirement is for ease of maintenance of the street. With construction of those townhouses that take access to Pine Lake Road, Bartels believes they need a standard city street.

Schwinn noted that there is a rural street profile in Wilderness Ridge with the softened ditches on the side. Most of the neighbors maintain up to the curb on Pine Lake Road on the north side so the maintenance of the ditches is not really a concern on the north side. On the south side with the townhomes, he would assume they would put the sidewalks in anyway. If we leave that requirement for the sidewalks on the south side of Pine Lake Road, that would be treated just like any other sidewalk bond in any other residential subdivision. Bartels noted that by regrading they could probably build the sidewalk. Possibly the ditch could be regraded. Bartels also pointed out that Wilderness Ridge is all private roadways so any added maintenance costs there go to the homeowners.

Newman is worried about "watch out what you wish for". If they improve that street and put the sidewalks on the development side, the development has to pay for it, but if the sidewalks are not required now, it is possible the owners will be assessed for the sidewalks in the future. Bartels acknowledged that the property owners would be assessed with at least a portion of it.

#### **Response by the Applicant**

Hunzeker responded to the exceptions to the waivers raised by Mr. Morrow. His objection to the access to the Portsche property strikes Hunzeker as maybe being a little "over the top". We're not causing any real problem with a right-in right-out on 84<sup>th</sup> Street at that location for that particular property. The grading problem described is one that is easily addressed. If the grade of 84<sup>th</sup> is raised 6', the distance between the new 84<sup>th</sup> and our current property is 100', so a 6% grade will easily make that transition. Moreover, the plan for the Portsche property is to have split-level office buildings with two stories on the back and one story on the front, which would make that kind of transition easily done and desirable.

The question about the sidewalks is one that is very legitimate. Who is going to control the strip of land abutting the west half of 84<sup>th</sup> Street? If, as Mr. Morrow indicated, the city has agreed to give to Eiger Corp as much of the right-of-way as it can, then that east half of the exiting right-of-way which will be abutting the west side of new 84<sup>th</sup> Street will be owned by Eiger Corp. and not subject to the control of any of the owners along the west side, other than those agreements that exist for sale of the property.

With respect to the urbanization of Pine Lake Road, the Commission has heard testimony from most of the people who live along the north side of Pine Lake Road who do not want that process to take place. If that road has to be changed, the changing of the existing roadway elevation and grades will have to be changed as it relates to the front yards of those properties. He is not sure what would happen in terms of the change of roadway grades or in terms of getting into the front yards of those properties.

With respect to the south side and the townhouse lots, Hunzeker explained that the lots are aligned and it would be a simple matter to provide access to the back side of the townhouses and in many ways more convenient for the builder who would not have to put in culverts along Pine Lake Road. This has not been made a condition but it is something that is very likely to occur. It might provide a more aesthetically pleasing front as well.

Schwinn agrees with the concern on the sidewalk issue from the existing Pine Lake neighborhood to get into the Eiger property. He suggested that the condition require them to provide pedestrian access from Eastshore Drive to So. 82<sup>nd</sup> Street, and then in that case that would give them the option to run the sidewalk through Outlot A and across the back of the townhouses, or sidewalks across the front. It just seems it would make sense to allow pedestrian access into the area. Newman is also concerned because there will be sidewalks on the east side of 84<sup>th</sup> so it is only natural that there should be some connection there. Schwinn is concerned that there is no pedestrian access from the existing Pine Lake neighborhood into this neighborhood. Hunzeker believes it is problematic in that there is a ditch and the established grades along those county road sections make it difficult. However, he agreed that it has been done and it can be done.

Public hearing was closed.

**ANNEXATION NO. 02006****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

November 13, 2002

Duvall moved to approve the staff recommendation of approval, subject to an annexation agreement, seconded by Carlson.

Schwinn noted that this motion does not delete Lot 34 as requested by Mr. Brinkman. It is our long time policy that when a piece of property gets surrounded by the city, you join hands and become part of the city.

Motion carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

**CHANGE OF ZONE NO. 3373**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

November 13, 2002

Duvall moved approval, seconded by Carlson and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

**USE PERMIT NO. 145**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

November 13, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Carlson and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

**PRELIMINARY PLAT NO. 02016**

**PINE LAKE PLAZA**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

November 13, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Carlson.

Steward made a motion to amend to delete Condition #1.1.1 (the issue regarding urbanization of Pine Lake Road), seconded by Schwinn. Discussion: Schwinn commented that there have been a lot of people in support of leaving Pine Lake Road in its particular profile so he wants to go with the neighborhood's desire. Motion to amend deleting Condition #1.1.1 carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

Duvall made a motion to amend to delete Condition #1.1.2 (the easement to accommodate drainage from detention cell #1). Motion failed for lack of a second.

Steward made a motion to amend to delete Condition #1.1.5, the impact of which accepts the 150' right-turn, southbound lane in South 84<sup>th</sup> Street as proposed, seconded by Duvall and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

Schwinn made a motion to amend to amend Condition #1.1.6 as follows: "Sidewalks along both sides of Eiger Drive, South 82<sup>nd</sup> Street, and Alcrom Court; along the west side of realigned South 84<sup>th</sup> Street; and along the south side of Pine Lake Road to provide pedestrian access from Eastshore Drive to Pine Lake Court onto South 82<sup>nd</sup> Street.", seconded by Duvall and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

Steward made a motion to amend to amend Condition #1.1.8 as follows: "Revise Note #21 to indicate sidewalks will be provided along both sides of the streets except Highway 2, and except as noted in Condition #1.1.6.", seconded by Duvall and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

Main motion for conditional approval, as amended, carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

(***Editorial Note:*** Conditions #1.1.2, #1.1.4, #1.1.10 and #3.2.10 were not deleted or amended by the Planning Commission).

**ANNEXATION NO. 02008;**  
**SPECIAL PERMIT NO. 1960; and**  
**PRELIMINARY PLAT NO. 02004,**  
**GRANDVIEW HEIGHTS, ON PROPERTY**  
**GENERALLY LOCATED AT THE**  
**NORTHWEST CORNER OF**  
**NORTH 14<sup>TH</sup> STREET AND SUPERIOR STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

November 13, 2002

Members present: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn; Bills-Strand and Krieser absent.

Staff recommendation: Deferral to advertise additional waiver request.

Carlson moved to defer, with continued public hearing and administrative action scheduled for November 27, 2002, seconded by Newman and carried 7-0: Newman, Carlson, Larson, Duvall, Steward, Taylor and Schwinn voting 'yes'; Bills-Strand and Krieser absent.

There being no further business, the meeting was adjourned at 3:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 27, 2002.